

Colorado Lender Plays Fast with Priority Lien Requirements

CAI members in Colorado have reported that a mortgage company in the state is telling lenders that in order to obtain a mortgage for a home in a community association the association must waive its priority assessment lien rights under Colorado Law. In justification for this requirement the mortgage company cites “VA, FHA and [Company name’s] internal company requirements.” CAI’s Government and Public Affairs Staff have reviewed the Federal Housing Administration (FHA) and U.S. Department of Veteran Affairs’ (VA) requirements, discussed this matter with officials at FHA and examined FHA’s ongoing and active lending in the 19 states with priority assessment lien laws. We have concluded that there is no federal regulatory or statutory requirement that would require an association to waive its priority assessment lien rights under Colorado Law to obtain a FHA or VA backed mortgage. We are working with the CAI’s Colorado Legislative Action Committee to bring this issue to the attention of legislators.

At issue are provisions in the FHA Handbook ([HUD Handbook 4150.1, Chapter 11](#)) which prohibits an association from establishing a priority lien for assessments through its declaration and covenants. We believe that the mortgage company in question is using this subsection as a pre-text for abrogating Colorado’s Priority Lien Assessment. If your lender experiences issues related to this claim, CAI recommends that the lender demand the statutory citation and or regulatory citation for the requirement. We encourage you to report this to CAI’s Government and Public Affairs Department at government@caionline.org with “Colorado Priority Lien” in the subject line. We will keep you posted on developments.